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United States  
Circuit Court of Appeals

For the Ninth Circuit.

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ARTHUR H. BRANDT, as Trustee of the Estate of  
F. S. MAYHEW, Bankrupt,

Petitioner,

vs.

F. S. MAYHEW and Mrs. F. S. MAYHEW, Hus-  
band and Wife,

Respondents.

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In the Matter of F. S. MAYHEW, in Bankruptcy.

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Petition for Revision

Under Section 24b of the Bankruptcy Act of Congress,  
Approved July 1, 1898, to Revise, in Matter of  
Law, of a Certain Order of the United  
States District Court for the North-  
ern District of California,  
First Division.

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FILED

MAY 19 1914



No. 2421

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United States  
Circuit Court of Appeals  
For the Ninth Circuit.

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F. S. MAYHEW, Bankrupt,  
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RECORD.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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[Petition for Revision.]

*In the United States Circuit Court of Appeals for  
the Ninth Circuit.*

No. 7659.

In the Matter of F. S. MAYHEW,

Bankrupt,

To the Honorable Judges of the United States Circuit Court of Appeals for the Ninth Circuit:

The petition of Arthur H. Brandt, trustee of the estate of F. S. Mayhew, bankrupt, respectfully shows unto this Court:

That on, to wit, the 17th day of October, 1912, a petition was filed in the District Court of the United States, Northern District of California, First Division, in involuntary bankruptcy against F. S. Mayhew; that thereafter and, to wit, on the 8th day of October, 1912, said F. S. Mayhew was, by order of said Court, adjudicated a bankrupt and the matter of his estate referred to Armand B. Kreft, Esq., Referee at San Francisco, for administration.

That on, to wit, the 13th day of December, 1912, the first meeting of the creditors of said F. S. Mayhew was held and your petitioner herein was duly elected trustee of said estate; that he thereupon qualified as such trustee and ever since has been and now is the duly elected, qualified and acting trustee of the estate of said bankrupt.

That on, to wit, the 10th day of January, 1913, your petitioner as such trustee filed in said Court his inventory of the property of the estate of said bankrupt; that said inventory included as an asset of the

estate of said bankrupt certain real property, with the improvements thereon, situated in the County of San Mateo, State of California.

That thereafter, and, to wit, on the 17th day of February, 1913, said F. S. Mayhew filed in said Court his Schedules of his creditors and of his property; that in said Schedules, under the heading provided for therein, he made claim to an exemption of \$5,000 in value of the real property, and the improvements thereon, situated in San Mateo County, California, theretofore included in the inventory filed by your petitioner as such trustee.

That subsequent to the adjudication in bankruptcy of said F. S. Mayhew, and, to wit, on the 4th day of November, 1912, Mrs. F. S. Mayhew, the wife of said bankrupt, recorded in the office of the County Recorder of San Mateo County, California, a declaration of homestead upon the real property and improvements hereinabove referred to, under and pursuant to the laws of the State of California; that thereafter, and, to wit, on the 20th day of November, 1912, she filed her petition for an order setting apart as exempt the dwelling-house and the land upon which she had filed said declaration of homestead.

That prior to the adjudication in bankruptcy of said F. S. Mayhew, and prior to the filing of the petition against him in involuntary bankruptcy, and on, to wit, the 18th day of April, 1912, the bankrupt and his said wife had conveyed the real property herein referred to to one Willard O. Wayman, for the benefit of the creditors of said F. S. Mayhew; that said transfer and conveyance was the act of bankruptcy



charged by the petitioning creditors and upon which the adjudication in bankruptcy was obtained; that said Willard O. Wayman, after the appointment of your petitioner as trustee herein, and on, to wit, the 20th day of December, 1912, transferred and surrendered the property so conveyed to him by said F. S. Mayhew to your petitioner, as trustee.

That your petitioner, as such trustee, declined and refused to set aside the claim of said F. S. Mayhew for said homestead exemption; that on, to wit, the 2d day of February, 1914, the Referee duly gave and entered his order granting and allowing the claim of said F. S. Mayhew to said homestead exemption, and ordering and directing the trustee to set aside said homestead exemption claimed by said bankrupt to the value of \$5,000 and to pay and deliver said sum to said bankrupt out of and from the proceeds of the sale of said real property when said sale should have been made.

That thereafter, and, to wit, on the 5th day of February, 1914, your petitioner as trustee filed his petition for the review of said order granting and allowing the claim of said bankrupt to said homestead exemption, a copy of which said petition for review, duly certified by the Clerk of said District Court, is hereto attached marked Exhibit "A"; that thereupon, and, to wit, on the 11th day of February, 1914, said Referee duly certified the questions involved to said District Court; that a copy of said certificate of the Referee on petition for review, duly certified by the Clerk of said District Court, is hereto attached marked Exhibit "B"; that said certificate

of said Referee sets out all of the facts herein enumerated, concerning which there is no controversy.

That thereafter, and, to wit, on the 7th day of May, 1914, by order of the said District Court duly made and entered on said day, the order of said Referee granting and allowing the claim of said bankrupt to said homestead exemption in the value of \$5,000 was affirmed; that a copy of said order of said District Court, duly certified by the Clerk of said District Court, is hereto attached marked Exhibit "C."

Your petitioner charges the fact to be that said District Court erred as a matter of law in affirming the order of said Referee in granting and allowing said bankrupt's claim to said homestead exemption; that on the facts as certified by said Referee said Bankrupt was not entitled to said homestead exemption for the following reasons, to wit:

1. That said bankrupt had not prior to the filing of the involuntary petition in bankruptcy against him, or prior to his adjudication as a bankrupt, made or recorded a declaration of homestead under and pursuant to the laws of the State of California, said homestead being claimed for the first time by said bankrupt upon the filing of his Schedules, some four months after his adjudication.

2. That by the conveyance of said bankrupt and his said wife, to said Willard O. Wayman, on the 18th day of April, 1912, said bankrupt had parted with all his right, title and interest in and to said real property, and that by reason thereof said bankrupt had no right, title or interest in said real property at the date of his adjudication as a bankrupt out of

which he could claim a homestead exemption.

WHEREFORE, your petitioner as said trustee, feeling aggrieved because of said order of said District Court, asks that the same may be revised in matter of law by this Honorable Court as provided in Section 24B of the Bankruptcy Act; and the rules of practice in such cases provided, and that the said order may be reversed, and for such other and further relief as may be just and proper.

Dated May 11, 1914.

R. H. CROSS,  
Attorney for Trustee of said F. S. Mayhew, Bankrupt and Petitioner.

State of California,  
City and County of San Francisco,—ss.

I, Arthur H. Brandt, trustee of the estate of F. S. Mayhew, bankrupt, the petitioner mentioned and described in the foregoing petition, do hereby make solemn oath that the statements therein contained are true according to the best of my knowledge, information and belief.

ARTHUR H. BRANDT.

Subscribed and sworn to before me this 11th day of May, 1914.

[Seal] HORTENSE GARDNER,  
Notary Public in and for the City and County of  
San Francisco, State of California.



*In the District Court of the United States, for the  
Northern District of California, First Division.*

No. 7659.

In the Matter of the Estate of F. S. MAYHEW,  
Bankrupt.

**Praecipe [for Transcript of Record for Use on  
Petition for Revision].**

To the Clerk of the Above-entitled Court:

Please prepare a transcript of the record in the above-entitled matter to be used on petition for revision of Arthur H. Brandt, trustee, of the order of the above-entitled court duly made and entered on May 7th, 1914, affirming the order of the Referee granting and allowing the claim of the above-entitled bankrupt to a homestead exemption, by the United States Circuit Court of Appeals for the Ninth Circuit, consisting of the following documents:

1. This Praecipe.
2. Petition for Review of Order of Referee.
3. Certificate of Referee on Petition to Review.
4. Order Affirming the Order of said Referee.

Dated May 11, 1914.

R. H. CROSS,

Attorney for Arthur H. Brandt, Trustee.

[Endorsed]: Filed May 11, 1914, at 11 o'clock and 15 min. A. M. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [1\*]

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\*Page-number appearing at foot of page of original certified Record.

[**Exhibit "A" to Petition for Revision.**]

*In the District Court of the United States, for the  
Northern District of California, First Division.*

No. 7659—IN BANKRUPTCY.

In the Matter of the Estate of F. S. MAYHEW,  
Bankrupt.

**Petition by Trustee to Review Order Allowing Claim  
of Bankrupt to Homestead Exemption.**

The petition of Arthur H. Brandt, trustee of F. S. Mayhew, bankrupt, respectfully shows:

That heretofore, and, to wit, on the 8th day of October, 1912, F. S. Mayhew was duly adjudged a bankrupt by order of this court; that thereafter, and, to wit, on the 13th day of December, 1912, your petitioner was chosen and elected trustee of the estate of said bankrupt, and ever since said date has been and now is the duly elected, qualified and acting trustee of the estate of said bankrupt.

That heretofore, and, to wit, on the 17th day of February, 1913, said bankrupt filed herein his Schedules pursuant to subdivision 8 of section 7 of the Bankruptcy Act; that in and by said Schedule, he claimed as exempt a homestead of the value of \$5,000.00, out of that certain real property situated in the County of San Mateo, State of California, and listed and described in said Schedules, under and pursuant to the provisions of Title V of the Civil Code of the State of California; that your petitioner as trustee of said estate, objected to the granting of said claim of homestead exemption.



That thereafter the claim of said bankrupt to said homestead exemption came regularly on to be heard before the Referee upon the claim therefor contained in the Schedules of said bankrupt, and the objections thereto of your petitioner as trustee, and [2] evidence, oral and documentary, having been heard with reference thereto, said Referee on the second day of February, 1914, duly made and filed an order granting and allowing said claim of homestead exemption, and instructing your petitioner as trustee to set aside said homestead exemption of the value of \$5000.00, and to pay and deliver said sum of \$5000.00 to said bankrupt out of and from the proceeds of the sale of said real property, when said sale shall have been made; that a copy of said order is attached hereto, marked Exhibit "A" and made a part hereof.

That your petitioner claims that said F. S. Mayhew is not entitled to claim a homestead exemption out of said real property in the amount of \$5000.00 or any sum, for the reason (1) that said bankrupt did not file his Schedules until the 17th day of February, 1913, more than ten days after his adjudication as a bankrupt, contrary to the provisions of Subdivision 8 of Section 7 of the Bankruptcy Act; (2) for the further reason that neither said bankrupt nor his wife had recorded any declaration of homestead on said real property prior to the adjudication in bankruptcy of said F. S. Mayhew, and (3) for the further reason that prior to the adjudication in bankruptcy of said F. S. Mayhew, on the 8th day of October, 1912, said bankrupt and his wife had made, executed

and delivered to one Willard O. Wayman, a deed of conveyance conveying to said Willard O. Wayman, all their right, title and interest in and to said real property, which said conveyance was made either as a preference or for the benefit of said bankrupt's creditors; that said Willard O. Wayman, on the 20th day of December, 1912, transferred and surrendered to your petitioner, as trustee, said real property.

Your petitioner therefore avers that the ruling and order of said Referee allowing said claim for homestead exemption, and instructing your petitioner as trustee to set aside said homestead exemption to the value of \$5000.00, and to pay and deliver that sum to said bankrupt out of and from the proceeds of the sale of said real property when said sale shall have been made, was erroneous and that no order should have been made by said Referee allowing [3] said claim for homestead exemption.

That your petitioner desires a review by the Judge of this court of the aforesaid order made by said Referee, and files this petition therefor, and he therefore prays that the error complained of and the questions of law and fact raised before the said Referee and decided by him, may be certified by said Referee to the Honorable Maurice T. Dooling, Judge of the District Court of the United States, Northern District of California, First Division, to the end that he may review said order and make and enter an order, or direct the Referee to make and enter an order holding and deciding that said bankrupt is not entitled to said homestead exemption, and denying and disallowing his claim therefor.

And your petitioner ever prays.

ARTHUR H. BRANDT,  
Petitioner.

R. H. CROSS,  
Attorney for Petitioner. [4]

United States of America,  
Northern District of California,  
City and County of San Francisco,—ss.

I, Arthur H. Brandt, the petitioner mentioned and described in the foregoing petition, do hereby make oath that the statements therein contained are true to the best of my knowledge, information or belief.

ARTHUR H. BRANDT.

Subscribed and sworn to before me this 5th day of February, 1914.

[Seal] HORTENSE GARDNER,  
Notary Public in and for the City and County of San Francisco, State of California. [5]

EXHIBIT "A."

*In the District Court of the United States, Northern District of California, First Division.*

No. 7659—IN BANKRUPTCY.

In the Matter of the Estate of F. S. MAYHEW,  
Bankrupt.

**Order Allowing Bankrupt's Claim to Homestead Exemption.**

The claim of F. S. Mayhew, the above-entitled bankrupt, to a homestead exemption out of that certain real property situated in the County of San Mateo, hereinafter described, to the value of \$5000.00,



coming on regularly to be heard before the Referee upon the claim of said exemption contained in the Schedules filed by said bankrupt herein, and the objections thereto of the trustee, and evidence, oral and documentary, having been heard with reference thereto,

And it appearing that heretofore, and, to wit, on the 17th day of February, 1913, said F. S. Mayhew, said bankrupt, filed in the above-entitled court, his Schedules as required by the Bankruptcy Act wherein and whereby he claimed as a homestead exemption, \$5000.00 in value of the real property situated in San Mateo County, California, and hereinafter more particularly described, under and pursuant to the provisions of Title 5 of the Civil Code of the State of California,

And it further appearing that the house and building on said real property was at and prior to the date upon which said F. S. Mayhew was adjudicated a bankrupt by order of the above-entitled court, occupied by said bankrupt and his family as a dwelling-house.

And it further appearing that heretofore, and, to wit, [6] on the 8th day of March, 1913, the Referee duly made and entered his order herein authorizing and directing the trustee to sell the real property hereinafter described, free and clear of all liens and incumbrances, and all and singular the law and facts being duly considered.

NOW, THEREFORE, it is hereby ordered that the claim of said F. S. Mayhew, said bankrupt, to a homestead exemption of \$5000.00 in value of said

real property, be and the same is hereby granted, and the trustee herein is instructed to set aside said homestead exemption claimed by said bankrupt to the value of \$5000.00, and to pay and deliver said sum to said bankrupt out of and from the proceeds of the sale of said real property when said sale shall have been made. The real property herein referred to is particularly described as follows, to wit:

Commencing at a point in the center line of Isabel Avenue, which said point is ascertained and located by running South 31 degrees 54' West, 22.19 chains from monument set at the most easterly corner of Lot No. 1 of Valparaiso Park and thence south 50 degrees 20' east, 3.18 chains from said point of commencement, running on and along said center line of Isabel Avenue south 32 degrees west, 5.42 chains; thence leaving said center line of Isabel Avenue and running north 50 degrees 20' west, 7.38 chains to a stake in the southeast fence line of the land of Moulton; thence on and along said fence line north 31 degrees 54' east, 5.42 chains to fence corner and lands of Winchester; thence on and along the southwest boundary of said lands of Winchester; thence on and along the southwest boundary of said lands of Winchester south 58 degrees 20' east, 7.31 chains, containing 4 acres.

Dated January 29, 1914.

ARMAND B. KREFT,

Referee.

[Endorsed]: Filed Feb. 2d, 1914, 10 A. M. A. B. Kreft, Referee. [7]



Receipt of a copy of the within petition is hereby admitted this —— day of February, 1914.

ERNEST R. LITTLE,  
Attorney for F. S. Mayhew.

[Endorsed]: Filed Feb. 5, 1914, 3 P. M. A. B. Kreft, Referee. [8]

**[Exhibit "B" to Petition for Revision.]**

*In the District Court of the United States, Northern  
District of California, First Division.*

Before ARMAND B. KREFT, Referee in  
Bankruptcy.

No. 7659.

In the Matter of F. S. MAYHEW,  
Bankrupt.

**Certificate of Referee on Petition to Review.**

To the Honorable, MAURICE T. DOOLING, Judge  
of the District Court of the United States,  
Northern District of California:

The undersigned, referee in bankruptcy, to whom  
was referred the above-entitled matter, respectfully  
certifies and reports:

That on January 29th, 1914, an order was made  
herein allowing the bankrupt's claim to a homestead  
exemption to the amount of \$5,000 in certain real  
property described in the bankrupt's schedules. The  
trustee, feeling aggrieved thereat, on February 5th,  
1914, filed a petition to review. The facts are as  
follows:

On August 17th, 1912, a petition was filed in invol-  
untary bankruptcy against the said F. S. Mayhew,

and he was adjudicated a bankrupt on October 8th, 1912. On November 4th, 1912, Mrs. Mayhew, the wife of the bankrupt, recorded with the county recorder of San Mateo County a declaration of homestead upon the property in question. On December 13th, 1912, the first meeting of creditors was held herein, and Arthur H. Brandt was elected trustee. On January 10, 1913, the trustee filed an inventory of the property of the estate of the bankrupt, including the property in question. For some time after the filing of the petition and after the adjudication the whereabouts of the bankrupt was unknown to the petitioning creditors, and the first meeting of creditors was [9] called upon a list of creditors furnished by the petitioning creditors. Later, the bankrupt made his appearance, and on February 17, 1913, he filed his schedules of his creditors and of his property, in which schedules, under the proper heading, he claims an exemption of \$5,000 in value of real estate situated in San Mateo County, and upon which his wife had filed a declaration of homestead. The trustee has refused to set aside the claim of exemption.

On November 20, 1912, Mrs. Mayhew filed a petition for an order setting apart as exempt the dwelling-house and the land upon which she had filed a declaration of homestead; and the bankrupt having later filed his schedules and claimed a homestead exemption therein, the petition of Mrs. Mayhew was considered together with the bankrupt's claim; and on the allowance of the bankrupt's claim to the homestead the petition of Mrs. Mayhew was denied.

On the 18th day of April, 1912, the bankrupt and his wife conveyed the property in question to one Willard O. Wayman for the benefit of the creditors of the bankrupt. This transfer is the act of bankruptcy charged by the petitioning creditors, and upon which the adjudication was obtained. Said Wayman, after the appointment of the trustee herein, and on the 20th day of December, 1912, transferred and surrendered the property so conveyed to him, to the trustee.

Two questions are presented:

(1) No statutory homestead under the laws of the State of California having been made and recorded prior to the filing of the petition herein or prior to adjudication, said homestead having been claimed for the first time by the bankrupt upon the filing of his schedules, about four months after the adjudication, is the bankrupt entitled to the claimed exemption?

(2) Did the bankrupt, by the conveyance to Willard O. Wyman prior to the filing of the petition herein, part with all title and interest in said property so that the trustee takes title thereto from said Willard O. Wyman? [10]

The question as to the right of the bankrupt to have set apart to him in a bankruptcy proceeding where he has not, prior to the commencement of the bankruptcy proceedings filed a statutory declaration of homestead under the State law, has been decided by this court in the cases of *In re Joseph Schwartz*, 5906, and *In re R. McCoy and Son*, 5536, which cases were decided by Judge Bean, who affirmed the rul-



ings of the referee Milton J. Green upon petitions to review.

In the case of Joseph Schwartz it was held that the provisions of the insolvency law of the State of California, Article 10, Paragraph 64 of the Insolvency Act of 1895 relating to homesteads, were not suspended by the National Bankruptcy Act. Said Insolvency Act contains the following provision:

“It shall be the duty of the court having jurisdiction of the proceedings to exempt and set apart, for the use and benefit of said insolvent, such real and personal property as is, by law, exempt from execution; and also a homestead, in the manner provided in Section one thousand four hundred and sixty-five of the Code of Civil Procedure.”

The section of the Code of Civil Procedure made applicable by the foregoing section of the Insolvency Act is the section relating to homesteads in probate proceedings. It has therefore been decided by this court that the bankrupt is entitled to a homestead to be set aside to him in bankruptcy proceedings although he has not complied with the provisions of Section 1262 of the Civil Code of this State relating to homesteads.

In the case of McCoy and Son, *supra*, this question was briefed at length and fully considered. Counsel for the trustee in the case at bar makes reference to the briefs filed in the case of McCoy and Son.

I hold, however, that the question is not open for further consideration as to the bankrupt's rights to

the homestead claim, except as to the effect of the amendment of 1910 to Section 47—a relating to the trustee's title, which reads as follows:

“Such trustee, as to all property in the custody or coming into the custody of the bankruptcy courts, shall be deemed vested with all the rights, remedies and powers of a creditor holding a lien by legal or equitable proceedings thereon; and also, as to all property not in the custody of the bankruptcy court, shall be deemed vested with all the rights and powers of a judgment [11] creditor holding an execution duly returned unsatisfied.”

In the case of Schwartz the referee in his opinion uses the following language:

“The books are full of decisions holding that exemption laws should be liberally construed by the courts; and unless some adverse interest has intervened, this court, to effectuate justice and to secure to the bankrupt a homestead for the use of himself and family dependent upon him, should not strictly construe laws which were passed for the benefit of an insolvent debtor. The trustee is not a purchaser for value, nor does he stand in the position of a judgment creditor.”

By the amendment quoted the trustee does stand in the position of a judgment creditor. A judgment creditor holding a lien upon the property, such lien would take precedence over any declaration of homestead which the bankrupt might thereafter file.

Section 6 of the Bankruptcy Act reads:



“(a) This act shall not affect the allowance to bankrupts of the exemptions which are prescribed by the State laws in force at the time of the filing of the petition in the State wherein they have their domicile for the six months or the greater portion thereof immediately preceding the filing of the petition.”

Section 70-a provides that the trustee shall be vested by operation of law with the title of the bankrupt, as of the date he was adjudged a bankrupt, except so far as it is to property which is exempt, etc.

This Court having held that the homestead exemption provision of the state insolvency law is a law in force, it is therefore an allowance to the bankrupt which under section 6 of the Bankruptcy Act “This Act shall not affect.” If the trustee is given the rights of a lien creditor as provided by section 47 a, as amended, the rights of the bankrupt to the exemptions would be affected, for this Court could not grant a homestead out of property on which a creditor held a valid lien. A construction of the amendment which would defeat the homestead right would be in conflict with provisions of section 6 which says, this act shall not affect the allowance to bankrupts of the exemptions which are prescribed by the State laws in force. In my opinion the provisions of Sec. 6 are controlling, and the amendment must be construed as if it read, such trustee shall be deemed vested with the rights of a lien creditor except as to property exempt to the bankrupt under Sec. 6.

As to the conveyance of this property to Willard O. Wayman [12] as an assignee for the benefit of

creditors, in my opinion such assignment only creates a trust, and not having been executed, the same falls upon the adjudication in bankruptcy. The testimony of the bankrupt was to the effect that this conveyance was made to secure his creditors. Such conveyance was either under an assignment for the benefit of all creditors, or, if for the benefit of certain creditors with intent to prefer, and which property could be recovered by the trustee. The testimony is of a somewhat indefinite character as to the facts concerning this assignment. My inference from the testimony was that it was intended to be for the benefit of all creditors. The petitioning creditors allege as the act of bankruptcy that the said F. S. Mayhew on the 18th day of April, 1912, made a general assignment to one Willard O. Wayman for the benefit of his creditors, of all his property on that day owned by said F. S. Mayhew. Considered from the standpoint of a preference, the question as to whether a bankrupt can claim exemptions of property which he had theretofore transferred to a certain creditor or creditors with intent to prefer, and which property thereafter comes into the estate, is one on which there is a marked conflict of opinion in the reported cases. The cases are referred to in the brief filed by the trustee.

My conclusion on this point is that the conveyance to Willard O. Wayman was in trust for the creditors, which trust was never executed, being avoided by the bankruptcy proceeding, and that the bankrupt is entitled to his claim of exemption against the property.

For the foregoing reasons I find that the bankrupt is entitled to an exemption in the real property described in his schedules as a homestead, to the extent of \$5,000. The property is subject to a mortgage, and has been appraised at \$25,000, which exceeds the amount of the homestead exemption and mortgage. The trustee has, however, been unable to find a purchaser in an amount which [13] he is willing to accept, and the sale of the property is still pending before the referee.

Respectfully submitted,

ARMAND B. KREFT,

Referee in Bankruptcy.

San Francisco, February 11th, 1914.

The foregoing order is affirmed.

[Endorsed]: Filed Feb. 18, 1914, at 11 o'clock and 30 min. A. M. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [14]

**[Exhibit "C" to Petition for Revision.]**

At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Thursday, the 7th day of May, in the year of our Lord one thousand, nine hundred and fourteen. Present: The Honorable M. T. DOOLING, Judge.

**[Order Affirming Order of Referee Allowing Bankrupt's Claim to Homestead Exemption.]**

No. 7659.

In the Matter of F. S. MAYHEW,

In Bankruptcy.



The Court this day ordered that the Order of the Referee allowing Bankrupt's Claim to a certain Homestead Exemption, signed by said Referee, Armand B. Kreft, on January 29th, 1914, be and the same is hereby affirmed. [15]

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**[Certificate of Clerk U. S. District Court to  
Transcript of Record.]**

*In the District Court of the United States, in and for  
the Northern District of California, First Division.*

I, W. B. Maling, Clerk of the District Court of the United States for the Northern District of California, do hereby certify the foregoing fifteen (15) typewritten pages, numbered from 1 to 15, inclusive, contain full, true and correct copies of "Petition by Trustee to Review Order Allowing Claim of Bankrupt to Homestead Exemption"; "Certificate of Referee on Petition to Review"; Minute Order—District Court—Affirming Order of Referee; and "Praecipe" for record on Petition for Revision, as the same now appear on file and of record in this office, in the Matter of F. S. Mayhew, in Bankruptcy, No. 7659.

I further certify that the cost of preparing and certifying the foregoing record on appeal is the sum of \$7.10 and that the said sum has been paid to me by R. H. Cross, Esq., attorney for appellant.

IN WITNESS WHEREOF I have hereunto set

my hand and the Seal of said District Court this 11th day of May, A. D. 1914.

[Seal]

W. B. MALING,  
Clerk.

By Lyle S. Morris,  
Deputy Clerk.

CMT. [16]

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[Endorsed]: No. 2421. United States Circuit Court of Appeals for the Ninth Circuit. Arthur H. Brandt, as Trustee of the Estate of F. S. Mayhew, Bankrupt, Petitioner, vs. F. S. Mayhew and Mrs. F. S. Mayhew, Husband and Wife, Respondents. In the Matter of F. S. Mayhew, in Bankruptcy. Petition for Revision Under Section 24b of the Bankruptcy Act of Congress, Approved July 1, 1898, to Revise, in Matter of Law, of a Certain Order of the United States District Court for the Northern District of California, First Division.

Received and filed May 11, 1914.

F. D. MONCKTON,  
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

By Meredith Sawyer,  
Deputy Clerk.



**[Notice of Filing of Petition for Review.]**

*In the United States Circuit Court of Appeals, for  
the Ninth Circuit.*

No. 7659.

In the Matter of F. S. MAYHEW,

Bankrupt.

To Hartley F. Peart, Esq., Attorney for Mrs. F. S.  
Mayhew, and to Ernest K. Little, Esq., Attorney  
for F. S. Mayhew, Bankrupt:

You and each of you are hereby notified that on the 11th day of May, 1914, at 10:30 o'clock A. M., I will present and file in the Clerk's office of the United States Circuit Court of Appeals for the Ninth Circuit, in the City and County of San Francisco, State of California, the annexed petition of Arthur H. Brandt, as trustee of the estate of F. S. Mayhew, bankrupt, for review by the above-named court of a certain order of the District Court of the United States, for the Northern District of California, First Division, which said order was filed in the office of the clerk of said court on the 7th day of May, 1914, confirming the order of Armand B. Kreft, Referee, dated February 2d, 1914, by which said order the claim of said F. S. Mayhew, said bankrupt, to a homestead exemption to certain real property situated in the County of San Mateo, California, in the value of \$5,000 was granted and allowed.

Dated: May 11, 1914.

R. H. CROSS,  
Attorney for Trustee.

Service of the within notice is hereby admitted  
this 11th day of May, 1914.

NOWLIN, FASSETT & LITTLE,  
Attorneys for Bankrupt.  
HARTLEY F. PEART,  
Of Counsel for Bankrupt.

[Endorsed]: No. 2421. United States Circuit  
Court of Appeals, Ninth District. In the Mat-  
ter of F. S. Mayhew, Bankrupt. Notice of In-  
tention to File Petition for Revision. Filed May 11,  
1914. F. D. Monckton, Clerk.